

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
CASE NO. 5:13-CV-00527-F

U.S. TOBACCO COOPERATIVE INC.;)
U.S. FLUE-CURED TOBACCO)
GROWERS, INC.; and BIG SOUTH)
DISTRIBUTION, LLC,)
)
Plaintiffs,)
)
)
v.) MOTION FOR LEAVE
) TO INTERVENE
BIG SOUTH WHOLESALE OF)
VIRGINIA, LLC d/b/a BIG SKY)
INTERNATIONAL; BIG SOUTH)
WHOLESALE, LLC; UNIVERSAL)
SERVICES FIRST CONSULTING)
A/K/A UNIVERSAL SERVICES)
CONSULTING GROUP; JASON)
CARPENTER; CHRISTOPHER)
SMALL; EMORY STEPHEN DANIEL;)
ALBERT JOHNSON, and other)
unnamed coconspirators,)
)
)
Defendants.)

Matthew Apuzzo, a reporter for *The New York Times*, respectfully moves this Court, pursuant to Rule 24 of the Federal Rules of Civil Procedure, for leave to intervene in this proceeding for the limited purpose of asserting and protecting his and the people's presumptive right of access to judicial documents and proceedings, as conferred by the First Amendment to the Constitution of the United States; Article I, §§ 14, 18 and 24 of the North Carolina Constitution; and common law. Specifically, movant seeks to intervene so that he may support Plaintiff's Motion to Unseal [Docket No. 520] on the grounds that there is no compelling need for the

sealing sufficient to overcome the movant's and the public's presumptive right of access to judicial pleadings. In support of this Motion to Intervene, the movant shows the following:

1. Matthew Apuzzo is a resident of Washington, D.C. and is employed by The New York Times Company. Mr. Apuzzo is a reporter for *The New York Times* ("The Times"). Mr. Apuzzo regularly reports on federal law enforcement and national security matters.

2. The movant has no legal interest in the merits or outcome of this case and wishes to intervene solely for the purpose of protecting his rights and the rights of the public, pursuant to the United States Constitution to attend judicial proceedings and inspect and copy any attendant documents.

3. "[R]epresentatives of the press and the general public must be given an opportunity to be heard on the question of their exclusion." *Globe Newspaper Co. v. Superior Court*, 457 U.S. 596, 609 n. 25, 102 S. Ct. 2613, 73 L. Ed.2d 248 (1982). A motion for leave to intervene is a proper (though not the only) vehicle for a member of the public to assert its interests and seek judicial redress. *Rushford v. New Yorker Magazine, Inc.*, 846 F.2d 249, 252 (4th Cir. 1988). "[N]on-parties must be permitted to intervene for the purpose of challenging any restrictions on the First Amendment right of access." *Perry v. City & Cnty. of San Francisco*, 10-16696, 2011 WL 2419868 (9th Cir. 2011). See also *In re Associated Press*, 162 F.3d 503, 508 (7th Cir. 1998) ("the Press ought to have been able to intervene in order to present arguments against limitations on the constitutional or common law right of access").

"The right of public access is 'a right that any member of the public can assert,' whether it is for the purpose of reporting on a trial as it unfolds or researching jury selection ten years later." *In re Jury Questionnaires*, 37 A.3d 879, 884 (D.C. Cir. 2012).

4. Permitting the movant to intervene will allow him to protect the public's interest in access to judicial records and attending judicial proceedings.

5. Movant has been denied access to the judicial pleadings.

WHEREFORE, the Movant respectfully moves the Court to permit his intervention and to permit him to file a brief in support of the pending Motion to Unseal records that previously have been sealed in this cause.

Respectfully submitted this the 1st day of September, 2016.

/s/ C. Amanda Martin
C. Amanda Martin
N.C. State Bar No. 21186
STEVENS MARTIN VAUGHN & TADYCH, PLLC
1101 Haynes Street, Suite 100
Raleigh, NC 27604
Telephone: 919-582-2300
Facsimile: 866-593-7695
Email: amartin@smvt.com

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of September, I electronically filed the foregoing Motion for Leave to Intervene with the Clerk of Court using the CM/ECF system addressed to the following counsel:

Thomas A. Farr
Michael Douglas McKnight
Kimberly Joyce Lehman
4208 Six Forks Road, Suite 11 00
Raleigh, NC 27609
thomas.farr@ogletreedeakins.com
michael.mcknight@ogletreedeakins.com
kimberly.lehman@ogletreedeakins.com

Amy M. Pocklington
Tevis Marshall
Riverfront Plaza-West Tower
901 East Byrd Street, Suite 1300
Richmond, VA 23219
amy.pocklington@ogletreedeakins.com
tevis_marshall@ogletreedeakins.com

Gavin B. Parsons, Esquire
Troutman Sanders LLP
P.O. Box 1389
Raleigh, NC 27602-1389
gavin.parsons@troutmansanders.com

Alan D Mathis, Esquire
Butler Snow LLP
One Federal Place, Suite 1000
1819 Fifth Avenue North
Birmingham, AL 35203
Alan.mathis@butlersnow.com

L. Gray Geddie
The Ogletree Building
300 North Main Street, Suite 500
Greenville, SC 29601
gray.geddie@ogletreedeakins.com

Kathryn H. Ruemmler
Allen M. Gardner
Kevin A. Chambers
Brian A. Licher
Latham & Watkins LLP
555 11th St., NW, Suite 1000
Washington, DC 20004
kathryn.ruemmler@lw.com
allen.gardner@lw.com
kevin.chambers@lw.com
brian.licher@lw.com

Gary S. Parsons, Esquire
W. Michael Dowling
Brooks, Pierce, McLendon, Humphrey &
Leonard, L.L.P.
1600 Wells Fargo Capitol Center
150 Fayetteville Street
Raleigh, North Carolina 27601
gparsons@brookspierce.com
mdowling@brookspierce.com

W. Sidney Aldridge, Esquire
Nicholls & Crampton, P.A.
3700 Glenwood Ave., Suite 500
P.O. Box 18237
Raleigh, NC 27612
wsaldridge@nichollscrampton.com

Elliot S. Abrams
Cheshire Parker Schneider & Bryan,
PLLC
133 Fayetteville Street, Suite 500
(27601)
P.O. Box 1029
Raleigh, NC 27602
elliott.abrams@chesirepark.com

Christopher T. Graebe, Esquire
Graebe Hanna & Sullivan, PLLC
4350 Lassiter at North Hills Avenue,
Suite 375
Raleigh, NC 27609
cgraebe@ghslawfirm.com

Wynne P. Kelly, Esquire
Special Attorney to the Attorney General
Assistant United States Attorney for the
District of Columbia
555 4th Street N.W.
Washington, D.C. 20530
wynne.kelly@usdoj.gov

This 1st day of September, 2016.

/s/ C. Amanda Martin
C. Amanda Martin
NC State Bar No. 21186
STEVENS MARTIN VAUGHN & TADYCH,
PLLC
1101 Haynes Street, Suite 100
Raleigh, NC 27604
Phone: 919-582-2300
Facsimile: 866-593-7695
Email: amartin@smvt.com